

TITLE 8

HEALTH & SANITATION

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- 8.02 Noise Limitations

CHAPTER 8.01

Control of Weeds and Noxious Plants

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8.01.010 Definitions. The following defined words and terms shall have the indicated meanings:

A. Weeds. "Weeds" include any vegetation commonly referred to as a weed, any unsightly, useless, troublesome or injurious herbaceous growing plant, or any vegetation which has been designated a noxious weed by the Colorado Commissioner of Agriculture.

B. Brush. "Brush" is a volunteer growth of bushes growing out of place and shall include all cuttings from trees, brushes, and high and rank shrubbery growth, but shall not include sagebrush.

C. Undesirable Plant. "Undesirable plant" means Russian, Spotted and Diffuse Knapweed, Leafy Spurge, and any other plant deemed undesirable by the Colorado legislature in Article 5.5, Title 35, C.R.S., or declared as a primary undesirable plant by the Garfield County Undesirable Plant Advisory Commission. (Ord. 327 §1, 1991; Amended Ord. 342, §1, 1993)

D. Xeriscaping. "Xeriscaping" is a type of landscaping which emphasizes the conservation of water and the use of drought resistant native plants.

8.01.020 Growth of Plants Prohibited.

A. It shall be unlawful for the owner or lessee of any lot, block or parcel of land within the town, or any agent in charge of said property, to allow or permit any weeds, brush, grasses, or other herbaceous plants, except for cultivated ornamental shrubs, bushes, and flowers, sagebrush and edible vegetables, to grow or remain when grown in excess of eight inches (8") above the ground upon such property or in the public right-of-way along side or in front of or in the rear of such property between the property line and the traveled portion of any street, roadway or alley.

B. It shall be an affirmative defense that the plant growth occurred more than twenty feet (20') from any developed area or other area that is being kept weed-free. This affirmative defense shall not relieve the owner or person in charge of the property from the obligation to keep said plants, as described herein, cut within eight inches (8") above the ground between the property line of such land and any adjoining streets, alleys, or other public rights-of-way.

C. It shall also be an affirmative defense that the plant growth is part of a Xeriscaping plan for the property.

8.01.030 Removal of Cut Plants Required. It shall be unlawful for the owner or lessee of any lot, block or parcel of land within the Town, or any agent in charge of said property, to fail to remove or any cut weeds, brush, grasses or other herbaceous plants from the premises within twenty-four (24) hours after cutting. Said offense shall be deemed one of strict liability.

8.01.040 Entry Upon Private Property.

A. The Town Administrator, or his designated agent, shall have the right to enter upon any premises, lands, or places, whether public or private, during reasonable business hours of the purpose of inspecting for the existence of weeds, when at least one of the following circumstances has occurred:

1. The landowner or occupant has requested, or given permission for, an inspection.
2. A neighbor has reported a suspected weed infestation and has requested an inspection.
3. An authorized agent of the Town Administrator has made a visual observation from a public right of way or area and has reason to believe that a violation of this Chapter has occurred.

B. No entry upon private premises shall be permitted until the landowner or occupant has been notified, either orally or by certified mail, that such inspection is pending.

C. If after receiving notice that an inspection is pending the landowner or occupant denies access to the authorized agent, the agent may seek an inspection warrant issued by the Parachute Municipal Court. The Court shall issue an inspection warrant upon presentation by the agent of an affidavit setting forth:

1. The information which gives the agent reasonable cause to believe that any provision of this Article is being or has been violated;
2. That the occupant or landowner has denied access to the agent; and
3. A general description of the affected land or parcel.

8.01.050 Procedure Upon Violation. When the Town Administrator, or his authorized agent, finds the existence of a violation of this Chapter, the agent shall issue a written notice to the landowner or occupant of the property. This notice shall specify the nature of the violation; and shall require the landowner or occupant to abate the violation within a reasonable time thereafter, not more than ten (10) days after the date of the notice. The notice shall be personally served upon the landowner or occupant, or shall be mailed to the landowner or occupant by certified mail.

On or before the deadline set forth in the Notice, the landowner or occupant shall:

- A. Comply with the terms of the notice; or
- B. Acknowledge the terms of the notice and submit a plan and schedule acceptable to the Town Administrator, or his agent, for compliance with the notice; or
- C. Request a hearing before the Board of Adjustment to determine whether a violation has occurred; or
- D. If the notice concerns undesirable plants, request an arbitration panel to determine whether or not a violation has occurred, as provided by § 35-5.5-109(4)(b), C.R.S.

8.01.060 Failure to Comply with Notice. In the event the landowner or occupant fails to comply with the Notice, as issued by the Town Administrator, or his agent, or as modified by agreement or by the Board of Adjustment or any arbitration panel, the Town Administrator, or his agent, may direct the Town Public Works Department or any employee of the Town to cut or otherwise remove, any such weeds, brush, grasses or other herbaceous plants which violate the terms of the Notice, and to remove the same, all at the expense of the owner of the property.

For cutting and removing any weeds, brush, grasses or other herbaceous plants pursuant to the direction of the court, the Town shall assess the actual costs thereof for labor, equipment,

and materials, plus an additional charge of fifteen percent (15%) of said sum for administration, inspection and other incidental costs in connection therewith to the owner of the lots and tracts of land from which the weeds, brush, grasses or other herbaceous plants are removed.

8.01.070 Notice of Assessment. The Town Administrator, or his agent, shall thereupon personally deliver or mail a notice of such assessment, which shall contain a description of the lots or parcels of land, addressed to the owner of such lots or tracts of land, to the last known address of such owner, based upon the records of the Garfield County Assessor.

8.01.080 Collection of Assessments.

A. The owner of the property identified in the Notice of Assessment shall be personally liable for the amount of the assessment, and shall pay the same in full within twenty (20) days after the mailing of the Notice.

B. The assessment shall be a lien against each lot or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments.

C. If the amount remains unpaid, the Town Treasurer may certify the amount of the assessment to the Garfield County Treasurer, to be placed upon the tax list for the current year and to be collected in the same manner as other taxes are collected, as provide in § 35-5.5-109(5)(a), C.R.S. All of the laws of the State of Colorado concerning the assessment and collection of general property taxes, including the laws regarding the sales of property taxes, including the law regarding the sales of property for taxes and the redemption thereof, shall apply to and have full effect for the collection for any such assessments.

8.01.090 Violation—Penalty. It shall be unlawful for any person to fail to comply with the terms of any notice issued pursuant to the provisions of Section 8.301.050; to refuse to permit an inspection pursuant to the provisions of Section 8.01.040; or to fail to remove cut plants as provided by Section 8.01.030. Any person convicted of violating any of the provisions of these Sections shall be fined in the sum of not less than \$50.00 and not more than \$1,000.00 or shall be imprisoned for not more than one year or shall be punished by both such fine and imprisonment. Every day that a violation of this Chapter occurs shall be construed as a separate violation. (Ord. 327 §5, 1991; Amended Ord. 342, §1, 1993)

8.01.100 Remedies not Exclusive. The fact that assessments have been made against property as provided in this Chapter for cutting and removing of weeds, brush, or other herbaceous plants, or a public nuisance has been declared, shall not prevent the owner, agent or lessee of such property from being subject to the criminal sanctions as provided in this Chapter and any person found guilty of violating the provisions of this Chapter may be fined or jailed, whether or not an assessment has been made in accordance with the provisions of this Chapter.

8.01.110 Public Nuisance. All undesirable plants and all weeds as defined in Section 8.01.020 and any and all premises, plants and things infested or exposed to infestation are declared to be public nuisances which may be abated as provided by law. This remedy shall be in addition to all other remedies provided by law.

8.01.120 Cooperation with Garfield County. The Town Administrator shall cooperate with the Garfield County Undesirable Plant Advisory Commission in the administration of this Chapter and in the administration of Article 5.5, Title 35, C.R.S., which deals with the eradication of undesirable plants.

(Ord. 342, §1, 1993)

CHAPTER 8.02

Noise Limitations

Sections:

8.02.010	Definitions.
8.02.020	Noise Limitations.
8.02.030	Sound Measurement.
8.02.040	Exceptions.
8.02.050	Temporary Permits.
8.02.060	Violations and Penalties.

8.02.010 Definitions. The following defined words and terms shall have the indicated meanings:

A. "Construction Activities" means any and all activity incidental to the erection, demolition, assembling, altering, installation or equipping of buildings, structures, roads or appurtenances thereto, including land clearing, grading, excavating and filling.

B. "Continuous Noise" means a steady fluctuating or impulsive noise which exists, essentially without interruption, for ten (10) minutes or more, with an accumulation of an hour or more during a period of eight (8) hours.

C. "Decibel" means a unit to express the magnitude of change in sound level.

D. "Dynamic Braking Device" means a device commonly known or described as a "Jacob Brake" or "Jake Brake," which is used primarily on trucks for the conversion of the motor from an internal combustion engine to an air compressor for braking without the use of wheel brakes.

E. "Unreasonable Noise" means any excessive or unusually loud sounds, or any sound which disturbs the peace and quiet of any neighborhood or causes damage to any property or business.

8.02.020 Noise Limitation. Except as provided in Section 8.02.050 and Section 8.02.060 of the Parachute Municipal Code:

A. No person shall knowingly make or continue, or cause to be made or continued, any unreasonable noise within the town limits.

B. The following acts are declared to cause unreasonable noises and in violation of this Section, except in case of an emergency, provided that the following is merely an enumeration and is not a limitation of the previous subsection:

1. Operating or permitting to be played any radio or television receiving set musical instrument, drum or other machine or device for the production or reproduction of sound in such a manner which makes or continues to make any unreasonable noise.

2. Discharging into the open air the exhaust of any steam engine, stationary internal combustion engine, air compressor equipment, motorboat, motor vehicle or other power device which is not equipped with an adequate muffler in constant operation and properly maintained to prevent any unreasonable noise.

3. Operating any automobile, truck, motorcycle or other motor vehicle which is so out of repair, so loaded, or operated in such a manner as to make or continue to make any unreasonable noise.

4. Operating a motor vehicle with a dynamic braking device engaged.

5. Engaging in construction activities in any residential or commercial district between the hours of 9:00 p.m. on one day and 7:00 a.m. on the following day.

6. Operating any loud speaker, public address system or other sound amplifying equipment in or on a motor vehicle in such a manner as to be plainly audible at twenty-five feet (25') from the motor vehicle, unless a permit has been issued therefore by the Town Administrator.

7. Permitting a dog or other animal to disturb the peace and quiet of neighborhoods with unpleasant or annoying noises, such as barking, between the hours of 9 p.m. and 7 a.m.

8. Making or knowingly permitting any noise which exceeds these levels:

<u>Zone</u>	<u>7 a.m. to 9 p.m.</u>	<u>9 p.m. to 7 a.m.</u>
Residential	55 db(A)	50db(A)
Commercial	60 db(A)	55db(A)
Industrial	75 db(A)	70db(A)

For the purpose of this subsection, railroad rights-of-way and construction projects for which a noise permit has been issued shall be considered as industrial zones.

8.02.030 Sound Measurements.

A. Noise shall be measured on the "A" scale of a standard sound level meter having characteristics defined by the American National Standards Institute.

B. Noise measurements shall be made when the wind velocity at the time and place of such measurement is less than five (5) miles per hour, and consideration shall be given to the effect of the ambient noise level created by the encompassing noise of the environment from all sources at the time and place of the sound level measurement.

C. Noise measurements shall be made at a distance of at least twenty five feet (25') from a noise source located within the public right of way, and if the noise source is located on other than public rights-of-way, at least five feet (5') from the property line of the property on which the noise source is located. For the purpose of this Chapter, the boundary walls of rental property shall be considered the property line.

8.02.040 Exceptions. The following shall be exempt from the prohibitions of this Chapter.

A. Ordinary power equipment, used for home or building repair or grounds maintenance, such as snow removal equipment, electric or chain saws, log chippers, lawn mowers, tractors or powered hand tools are exempt from the prohibition based upon noise measurements.

B. Sounds emanating from any aircraft, church, warning or emergency signal device used or authorized by any government agency, or Veteran's Day celebration.

C. Authorized emergency vehicles, when responding to emergency calls.

D. Temporary activities authorized by the Town Administrator pursuant to a permit granted in accordance with Section 8.02.050 hereof.

8.02.050 Temporary Permits. Temporary permits to exceed sound limitations of this Chapter may be issued by the Town Administrator or the Mayor. All temporary permits shall be in writing, and shall include the duration of the permit, the sound source temporarily permitted, the hours of the day and days of the week the permit is effective, and any other reasonable limitations which may be imposed by the Town Administrator or the Mayor.

8.02.060 Violations and Penalties. Any person who violates any of the provisions of this Chapter commits a municipal offense punishable by a fine not to exceed \$1,000 or imprisonment not to exceed one (1) year. Each day during which an offense occurs shall be considered as a separate offense.

(Ord. 343, 1993)